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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,094	06/01/2001	Ryohei Tsukamoto	14648	2445
23389	7590	11/10/2005	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			GART, MATTHEW S	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,094

Applicant(s)

TSUKAMOTO, RYOHEI

Examiner

Matthew S. Gart

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History Summary

Claims 1-18 are pending in the instant application. Claims 1, 2, 8, 14 and 18 were amended per the applicant's response dated 4/7/2005.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph.

Referring to claims 1-7. Claim 1 recites the limitation "the face" (line 5 of claim 1). There is insufficient antecedent basis for this limitation in the claim.

Claim 1 further recites the limitation "just fits in an indicated frame" (line 6 of claim 1). The phrase "just fits in" is a relative term, which renders the claim indefinite. The term "just fits in" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Referring to claim 6. The term "substantially equal" in claim 6 is a relative term, which renders the claim indefinite. The term "substantially equal" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Referring to claims 8-13. Claim 8 recites the limitation "the face" (line 3 of claim 8). There is insufficient antecedent basis for this limitation in the claim.

Claim 8 further recites the limitation "just fits in an indicated frame" (line 4 of claim 8). The phrase "just fits in" is a relative term, which renders the claim indefinite. The term "just fits in" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Referring to claims 14-17. Claim 14 recites the limitation "the face" (line 4 of claim 14). There is insufficient antecedent basis for this limitation in the claim.

Claim 14 further recites the limitation "just fits in an indicated frame" (line 5 of claim 14). The phrase "just fits in" is a relative term, which renders the claim indefinite. The term "just fits in" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Referring to claim 18. Claim 18 recites the limitation "the face" (line 5 of claim 18). There is insufficient antecedent basis for this limitation in the claim.

Claim 18 further recites the limitation "just fits in an indicated frame" (line 6 of claim 18). The phrase "just fits in" is a relative term, which renders the claim indefinite. The term "just fits in" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lennon (U.S. Patent Number 6,624,843) in view of Rose (U.S. Patent Number 5,930,769).

Referring to claim 1. Lennon discloses an Internet boutique system for selling commodities in total coordination, the system comprising:

- A user image database (Lennon: column 3, lines 25-27);
- User image managing means for acquiring an image of a user of the Internet boutique system from outside thereof while adjusting the size of the image such that the face portion thereof just fits in an indicated frame, and recording and managing the image of the user after its size has been adjusted in said user image database (Lennon: column 4, lines 13-15);
- Coordinating means for displaying the image of a commodity selected by the user from the images of commodities for sale in the Internet boutique system, in combination with said image of the user (Lennon: column 4, lines 24-34);

Lennon does not structurally disclose a system comprising a purchasing means.
Rose discloses a purchasing system, the system comprising:

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- Purchase processing means for performing a process of purchasing a commodity (Rose: column 8, lines 16-51);
- A purchase commodity database (Rose: column 8, lines 16-51); and
- Purchased commodity managing means for recording and managing data of the commodity determined to be purchased by said user, in said purchased commodity database (Rose: column 8, lines 16-51).

At the time the invention was made it would have been obvious to a person of ordinary skill in the art to have modified the method of Lennon to have included the teachings of Rose in order to provide enhanced services and easy shopping for customers while increasing efficiency (Rose: column 1, line 65 to column 2, line 2).

Referring to claim 2. Lennon further discloses a system comprising:

- Commodity registering means for allowing a seller to register the images of a commodities for sale in the Internet boutique system (Lennon: column 4, lines 15-19);
- A commodity database (Lennon: databases **106**); and
- Commodity image managing means for classifying the images of commodities for sale which are registered by said commodity registering means according to at least type, design, and color, adjusting sizes of said images of commodities to be registered to a frame for each commodity type, and recording and managing the images of commodities in said commodity image database (Lennon: column 3, lines 25-35).

Referring to claim 3. Lennon further discloses a system wherein said coordinating means comprises means for simultaneously displaying a first view of a plurality of images of commodities for sale in the Internet boutique system, and a second view of a combination of the image of the selected commodity and the image of the user, separately from each other (Lennon: column 10, lines 1-13).

Referring to claim 4. Lennon further discloses a system wherein said second view includes a portion at a given ratio of horizontal and vertical dimensions, and said first view is disposed in an area other than said second view (Lennon: column 10, lines 1-13).

Referring to claim 5. Lennon further discloses a system wherein said first view includes a pair of portions displayed on opposite sides of said second view, and said coordinating means comprises means for displaying a plurality of images of commodities of different types respectively in said portions of the first view (Lennon: column 10, lines 1-13).

Referring to claim 6. Lennon further discloses a system wherein said given ratio of horizontal and vertical dimensions is substantially equal to a ratio horizontal and vertical dimensions of a human body (Lennon: column 4, lines 7-39).

Referring to claim 7. Lennon further discloses a system wherein said user image managing means comprises means for extracting an image in a prespecified range from the acquired image of the user, and recording and managing the extracted image in said user image database (Lennon: column 4, lines 13-15).

Referring to claims 8-13. Claims 8-13 are rejected under the same rationale as set forth above in claims 1-7.

Referring to claims 14-17. Claims 14-17 are rejected under the same rationale as set forth above in claims 1-7.

Referring to claim 18. Claim 18 is rejected under the same rationale as set forth above in claims 1-7.

Response to Arguments

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

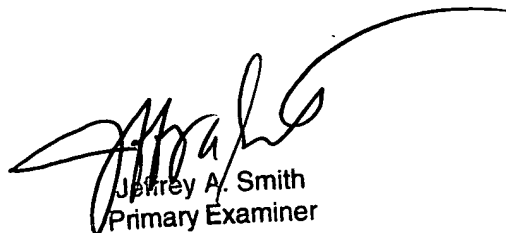
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-273-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MSG
Patent Examiner
November 2, 2005



Jeffrey A. Smith
Primary Examiner